

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOEY DESHAUN CLARK,

Defendant.

2:07-CR-00077-PMP-RJJ

2:11-CV-00497-PMP

ORDER

Before the Court for consideration is Defendant Clark's Motion Pursuant to 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (Doc. #123).

By the instant Petition, Defendant Clark seeks to raise issues which he did not address on his direct appeal. Essentially, Defendant Clark seeks now to raise an issue relating to the denial of a motion to suppress evidence which he waived under the plea agreement leading to his conviction and sentence. Additionally, as noted in the Government's Response (Doc. #125) by signing the plea agreement and entering a plea of guilty, Defendant Clark admitted unconditionally, and beyond a reasonable doubt, that he unlawfully possessed the firearms charged in the Superseding Indictment. Such a plea of guilty forecloses any claim of "actual innocence."

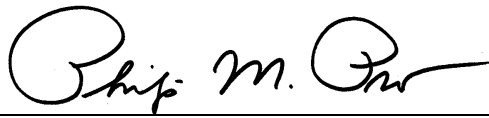
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1 For the reasons set forth in the Government's Opposition (Doc. #125), and
2 good cause appearing,

3 **IT IS ORDERED that** Defendant Joey Clark's Motion Pursuant to 28
4 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal
5 Custody (Doc. #123) is **DENIED**.

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7 DATED: April 25, 2011.

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10 PHILIP M. PRO
United States District Judge